

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEORGE MERCIER,

Plaintiff,

v.

STATE OF COLORADO, et al.,

Defendants.

Case No. 2:06-CV-01107-KJD-GWF

ORDER

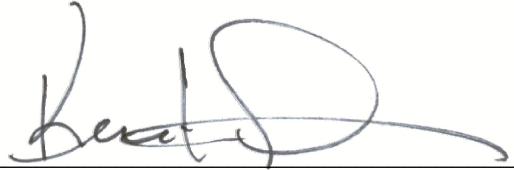
On September 5, 2006, Plaintiff filed an Application for Leave to Proceed In Forma Pauperis (“IFP”). On September 15, 2006, the Court entered an order denying Plaintiff’s IFP application because it was incomplete. The order then directed Plaintiff to either submit a completed application and affidavit in support of his request to proceed IFP or pay the appropriate filing fee of \$350.00 no later than October 5, 2006. The Court warned Plaintiff that failure to comply with this order would result in the recommendation that this action be dismissed without prejudice. Plaintiff has not submitted a completed IFP application or paid the requisite filing fee.

The Court finds that dismissal is now warranted. Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss any action for failure to comply with the court’s rules and/or orders to prosecute the action. The Court is required to weigh the following factors before dismissing an action under this rule: (1) the public’s interest in expeditious resolution of litigation;

1 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public
2 policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.
3 See Malone v. United States Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987). Plaintiff has failed to
4 comply with the order entered on September 1, 2006. After having weighed these factors, the Court
5 finds that dismissal is warranted pursuant to Rule 41(b).

6 Accordingly, IT IS HEREBY ORDERED that the instant case is **DISMISSED WITHOUT**
7 **PREJUDICE**.

8 DATED this 6th day of October 2006.

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12 Kent J. Dawson
13 United States District Judge
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